#### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MICROSOFT CORPORATION, a Washington) corporation,	
Plaintiff, )	Case No. 08 cv 3299
-v- )	Judge James B. Zagel
MYODA COMPUTER CENTER, INC., an Illinois corporation f/k/a MYODA COMPUTER CENTERS, INC. d/b/a MYODA COMPUTER CENTERS; and CHARLES CHENG, an individual,	Magistrate Judge Schenkier
Defendants.	

# PLAINTIFF MICROSOFT CORPORATION'S VERIFIED MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANTS MYODA COMPUTER CENTER, INC. AND CHARLES CHENG

Plaintiff Microsoft Corporation ("Microsoft") respectfully moves this Court, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, for an order entering default against Defendants Myoda Computer Center, Inc., an Illinois corporation formerly known as Myoda Computer Centers, Inc. and doing business as Myoda Computer Centers ("Myoda"), and Charles Cheng, an individual ("Cheng") (collectively, "Defendants"). In support of this motion, Microsoft states as follows:

1. On June 19, 2003 Microsoft brought suit against Myoda Computer Centers, Inc. and Charles Cheng for infringement of Microsoft's copyrights and trademarks and other related claims (*Microsoft Corporation v. Myoda Computer Centers, Inc. et al.*, United States District Court for the Northern District of Illinois, Eastern Division, Case No. 03 cv 4220).

- 2. In December 2003, the Defendants stipulated to a Permanent Injunction. The court entered the Stipulated Permanent Injunction on January 22, 2004. The Stipulated Permanent Injunction prohibits the Defendants, their successors, and all those acting in concert or participation with them from, among other things, infringing Microsoft's copyrights and trademarks.
- Notwithstanding the Stipulated Permanent Injunction, Defendants continue to 3. infringe Microsoft's copyrights and trademarks. On June 9, 2008, Microsoft initiated this action by filing its Complaint against Defendants.
- On June 9, 2008, the Complaint, Summons, Civil Cover Sheet, Appearances, 4. and Notice of Claims Involving Trademarks were properly served on Myoda and Cheng by a special process server. See Affidavits of Process Server, copies of which are attached as Exhibits A and B, respectively. Defendants were required to appear and answer or otherwise plead by July 1, 2008. See FRCP 12(a)(1)(A).
- On July 1, 2008, no Defendant had filed an answer or other response to the 5. Complaint.
- To date, no Defendant has appeared or answered the Complaint, nor has any 6. Defendant sought an extension of time to do so.
- Accordingly, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. 7. Microsoft respectfully requests that default be entered against Defendants on all counts asserted in the Complaint.

WHEREFORE Microsoft respectfully requests that this Court enter an order (a) granting this Verified Motion; and (b) entering default, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, against Defendants Myoda Computer Center, Inc. and Charles

Cheng as to all claims asserted by Microsoft. Once default has been entered, Microsoft will file a motion for default judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

Dated: July 22, 2008

MICROSOFT CORPORATION

By: /s/ Todd M. Church
One of Its Attorneys

Eric D. Brandfonbrener Todd M. Church PERKINS COIE LLP 131 South Dearborn Street, Suite 1700 Chicago, Illinois 60603-5559 (312) 324-8400 -- telephone (312) 324-9400 -- facsimile

#### **VERIFICATION**

I verify under penalty of perjury that Plaintiff Microsoft Corporation's Verified Motion for Entry of Default Against Defendants Myoda Computer Center, Inc. and Charles Cheng is true and correct.

Executed on July 22, 2008.

/ / 77 1136	$\alpha$ 1
/s/ Todd M.	Church

## **EXHIBIT A**

#### **UNITED STATES DISTRICT COURT** NORTHERN DISTRICT OF ILLINOIS **CASE NO. 08CV 3299**

AFFIDAVIT OF SPECIAL PROCESS SERVER

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Signed and Sworn to	before me	Da.	$\wedge$	

This 11<sup>th</sup> day of June 2008.

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Philip Alkhoury **Special Process Server** IT'S YOUR SERVE, INC. ~

Private Detective No. 117-000885

AO 440 (Rev. 05/00) Summons in a Civil Action

#### UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

#### SUMMONS IN A CIVIL CASE

<b>MICROSOFT</b>	CORPORATION,	a	Washington
corporation.			

Plaintiff,

CASE NUMBER:

08CV 3299

V.

ASSIGNED JUDGE: JUDGE ST. EVE

MYODA COMPUTER CENTER, INC., an Illinois corporation f/k/a MYODA COMPUTER CENTERS, INC. d/b/a MYODA COMPUTER CENTERS; and CHARLES CHENG, an individual, Defendants.

DESIGNATED

MAGISTRATE JUDGE SCHENKIER

MAGISTRATE JUDGE:

TO: (Name and address of Defendant)

MYODA COMPUTER CENTER, INC. C/O SHOU P. CHENG, AGENT 1070 N. ROSELLE ROAD, SUITE 101 **HOFFMAN ESTATES, IL 60169** 

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Eric D. Brandfonbrener Todd M. Church Perkins Coie LLP 131 S. Dearborn St., Suite 1700 Chicago, IL 60603

an answer to the complaint which	is herewith served upon you, within	20	days after service of this
summons upon you, exclusive of	the day of service. If you fail to do so	, judgment by de	fault will be taken against you for the
relief demanded in the complaint.	You must also file your answer with the	ne Clerk of this Co	ourt within a reasonable period of time
after service.			

Michael W. Dobbins, Clerk

(By) DEPUTY CLERK

June 9, 2008

**Date** 

## Case 1:08-cv-03299 Document 12 Filed 07/22/2008 Page 8 of 12 Case 1:08-cv-03299 Document 9 Filed 06/12/2008 Page 2 of 3

AO 440 (Re	v. 05/00) Summons in a Civil Action				
		RETURN OF	SERVICE		
Serv	ice of the Summons and complaint was made	de by me <sup>(1)</sup>	DATE		
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Check on	ne box below to indicate appropriate method of :	service			
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<sup>(1)</sup> As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

### **EXHIBIT B**

#### UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS CASE NO. 08CV 3299

AFFIDAVIT OF SPECIAL PROCESS SERVER

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Signed and Sworn to light This 11 <sup>th</sup> day of June	pefore me 2008.	Philip Alkhou Special Proc	ess Server
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Private Detective No. 117-000885

OFFICIAL SEAL

NOTARY PUBLIC - STATE OF ILLINOIS MY COMMISSION EXPIRES:11/19/11

### UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

#### SUMMONS IN A CIVIL CASE

MICROSOFT CORPORATION, a Washington corporation, Plaintiff,	CASE NUMBER:	08CV 3299
V.	ASSIGNED JUDGE:	JUDGE ST. EVE
MYODA COMPUTER CENTER, INC., an Illinois corporation (/k/a MYODA COMPUTER CENTERS, INC. d/b/a MYODA COMPUTER CENTERS; and CHARLES CHENG, an individual, Defendants.	DESIGNATED MAGISTRATE JUD	MAGISTRATE JUDGE SCHENKIER XGE:
TO: (Name and address of Defendant)		
CHARLES CHENG 1070 N. ROSELLE ROAD, SUITE 101 HOFFMAN ESTATES, IL 60169		
YOU ARE HEREBY SUMMONED and require	ed to serve upon PL	AINTIFF'S ATTORNEY (name and address)
Eric D. Brandfonbrener Todd M. Church Perkins Coie LLP 131 S. Dearborn St., Suite 1700 Chicago, IL 60603		
an answer to the complaint which is herewith served upon y summons upon you, exclusive of the day of service. If you relief demanded in the complaint. You must also file your a after service.	fail to do so, judgm	days after service of this nent by default will be taken against you for the cof this Court within a reasonable period of time
Michael W. Dobbins, Clerk  Waling Hindur		June 9, 2008
By) DEPUTY CLERK	OK. I	Date

Case 1:08-cv-03299 Case 1:08-cv-03299 Document 12 Document 10 Filed 07/22/2008 Filed 06/12/2008 Page 12 of 12 Page 2 of 3

	05/00) Summons in a Civil Action			
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